

TESTIMONY OF ROBERT A. PALMERSHEIM
BEFORE THE SUBCOMMITTEE ON AVIATION
OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
SEPTEMBER 10, 1999
HELD AT KALISPELL, MONTANA.

MY NAME IS ROBERT A. PALMERSHEIM, DIRECTOR OF FLIGHT OPERATIONS, AS WELL AS SECRETARY-TREASURER OF LYNCH FLYING SERVICE, INC. IN BILLINGS, MONTANA.

OUR COMPANY HAS BEEN IN EXISTENCE 59 YEARS, STARTING IN 1940 AS A CPT CONTRACTOR FOR THE MILITARY THROUGH MONTANA STATE COLLEGE IN BOZEMAN.

WE ARE A FULL SERVICE FBO AND HAVE BEEN ASSOCIATED WITH CESSNA AIRCRAFT COMPANY AS A DISTRIBUTOR AND DEALER FOR OVER 50 YEARS.

WE CURRENTLY OPERATE 29 AIRCRAFT IN OUR CHARTER AND FLIGHT TRAINING OPERATIONS. WE HAVE 55 FULL TIME EMPLOYEES OF WHICH THOSE, 15 ARE FULL TIME PILOTS IN OUR CHARTER DEPARTMENT. OUR COMPANY FLIES OVER 10,000 HOURS OF ON DEMAND AIR CHARTER PER YEAR.

AS A FAA PART 135 ON-DEMAND AIR CHARTER OPERATOR, OUR CHARTER DEPARTMENT CONTRIBUTES APPROXIMATELY 49 PERCENT OF THE TOTAL SALES REVENUE OF THE COMPANY.

AS AN UNSCHEDULED ON -DEMAND CHARTER OPERATOR, A GOOD SHARE OF OUR MARKET IS TO RURAL AREAS NOT SERVED BY THE SCHEDULED CARRIERS.

WE ARE VERY WELL AWARE OF THE ACUTE PILOT SHORTAGE, HAVING LOST SOME 30 PILOTS TO THE MAJOR AIRLINES AND COMMUTERS, 21 IN JUST THE LAST TWO YEARS.

WITH THE CRITICAL SHORTAGE OF AFFILIATED PILOTS, OUR COMPANY IS EXTREMELY CONCERNED THAT THE FAA IS ATTEMPTING TO INCLUDE ON-DEMAND OPERATORS IN THE SAME CATEGORY AS THE SCHEDULED CARRIERS UNDER THE FLIGHT AND DUTY TIME REGULATIONS.

FOR THE ON-DEMAND AIR CHARTER INDUSTRY, THERE ARE TWO TIMES RECOGNIZED FOR PILOTS IN THE REGULATIONS DUTY...AND...REST. ESSENTIALLY A PILOT IS EITHER WORKING...ON DUTY...OR AT REST. IN THE PAST, THE FAA HAS OBSERVED THE CREW ASSIGNMENTS IN ON-DEMAND AIR CHARTER AND DETERMINED THIS PRACTICE IS IN COMPLIANCE WITH THE REST REGULATION.

AFTER COMPLETING A FLIGHT AND FULFILLING A REQUIRED REST PERIOD, THE PILOT IS NOT WORKING...NOT ON DUTY...AND IS AGAIN, FOR PURPOSES

OF REGULATION COMPLIANCE,...AT REST. FAA PRINCIPAL OPERATIONS INSPECTORS AND THE AIR CHARTER INDUSTRY HAVE USED THIS BASIC PRINCIPAL FOR YEARS. WE THEREFORE CONTEND THAT UNDER THE PROVISIONS OF PART 135 THAT APPLY TO US, A PILOT CAN ONLY BE IN TWO STATES...DUTY OR REST.

THE FAA' S NEW INTERPRETATION OF THE EXISTING FLIGHT AND DUTY TIME REGULATION COULD HAVE DEVASTATING FINANCIAL EFFECTS ON THE ON-DEMAND AIR CHARTER INDUSTRY.

IT IS VERY IMPORTANT TO UNDERSTAND THE NATURE OF THE ON-DEMAND INDUSTRY BEFORE WE DISCUSS THE NEGATIVE EFFECTS THAT THE NEW INTERPRETATION WILL HAVE ON IT . FIRST OF ALL, ON-DEMAND AIR CHARTER EXISTS FOR TWO PRIMARY REASONS:

ONE IS THAT IT PROVIDES FLEXIBILITY TO ITS USERS THAT NO OTHER MODE OF AIR TRANSPORTATION CAN PROVIDE: i.e. EMERGENCY AIR AMBULANCE TO SAVE LIVES, JUST IN TIME CARGO NEEDS, ETC. CHARTER SERVES COMMUNITIES THAT SCHEDULED AIR CARRIERS DO NOT SERVE. THEY ALSO PROVIDE TRANSPORTATION TO CUSTOMERS ON THE CUSTOMERS SCHEDULE NOT THE AIRLINES SCHEDULE.

SECONDLY, ON-DEMAND AIR CHARTER IS USED AS AN ALTERNATIVE TO CHEAPER SCHEDULE TRANSPORTATION FOR A VARIETY OF REASONS, BUT MOSTLY BECAUSE THERE ARE NO OTHER OPTIONS. FOR EXAMPLE:

YOU ARE SETTLED INTO FIRST CLASS ON UNITED AIRLINES HEADING TO WASHINGTON, D.C. FOR A MANDATORY SENATE VOTE. THE CAPTAIN COMES ON AND NOTIFIES YOU THAT THE PLANE HAS MECHANICAL PROBLEMS AND THE FLIGHT IS CANCELED. YOU CALL ALL THE OTHER AIRLINES AND FIND OUT NOTHING WILL GET YOU THERE FOR THE VOTE ON TIME. YOU KNOW THAT YOU HAVE THE TIEBREAKER FOR AN IMPORTANT PIECE OF LEGISLATION, BUT IF YOU DON'T GET THERE THE VICE PRESIDENT WILL BE THE TIEBREAKER. YOUR NEXT CALL IS TO LYNCH. THEY SCRAMBLE A CREW AND AIRCRAFT AND HAVE YOU IN WASHINGTON D.C. IN TIME FOR LUNCH.

COMPANIES LIKE LYNCH HAVE BUILT THEIR FOUNDATION WITH THE ON-DEMAND NICHE DUE TO THE FLEXIBILITY IT PROVIDES ITS CUSTOMERS. IT IS A VERY SPECIALIZED NICHE. THE FAA'S NEW INTERPRETATION OF FLIGHT AND DUTY TIME IS DESIGNED FOR SCHEDULED CARRIERS AND WOULD NOT WORK AT ALL IN THIS INDUSTRY. IT IS ANOTHER ATTEMPT BY THE FAA TO BLANKET POLICY "ONE SIZE FITS ALL" TO AN INDUSTRY THAT IS DIVERSE. YOU CANT REQUIRE SCHEDULED CREWS IN AN UNSCHEDULED ENVIRONMENT. IT WOULD

ONLY DEVASTATE THIS IMPORTANT SEGMENT OF THE INDUSTRY. THEY SHOULD KNOW BY NOW THAT THESE BLANKET POLICIES FAIL MISERABLY. IT'S LIKE IMPLEMENTING A POLICY AT THE ZOO, MAKING ALL THE ANIMALS EAT BANANAS. ITS GREAT FOR THE MONKEYS, BUT THE TIGER THINKS IT'S A BAD DEAL.

CURRENTLY ON-DEMAND PILOTS ARE EITHER ASSIGNED TO DUTY OR THEY ARE OFF DUTY (REST). THIS ALLOWS THE OPERATOR TO DRAW PILOTS, WHO HAVE HAD THEIR REQUIRED REST, TO DUTY ASSIGNMENTS WHEN AN ON-DEMAND TRIP COMES UP. UNDER THE NEW INTERPRETATION THE PILOT WOULD NEED TO HAVE BEEN ASSIGNED 10 HOURS OF REST IN THE LAST 24 HOURS PRIOR TO BEING ASSIGNED DUTY. UNFORTUNATELY, NOBODY KNOWS WHEN THE PHONE IS GOING TO RING FOR A TRIP, SO IT IS NEARLY IMPOSSIBLE TO ASSIGN REST PERIODS OTHER THAN THE ONE REQUIRED AFTER A DUTY ASSIGNMENT.

WHAT THIS MEANS IS SCHEDULING YOUR ON-DEMAND PILOTS TO 10 HOURS OF REST EVERY DAY, EVEN IF THEY HAVEN'T FLOWN FOR A WEEK. OUR COMPANY WOULD HAVE TO NEARLY DOUBLE THE PILOT POOL TO COVER THE SAME NUMBER OF FLIGHTS IT CURRENTLY ACCEPTS. THE AVERAGE PILOT FLIES 40 HOURS PER MONTH NOW WHICH WOULD BE CUT IN HALF.

RETAINING QUALITY PILOTS ALREADY IN SHORT SUPPLY WOULD BE MUCH MORE

DIFFICULT THAN IT IS NOW AND KEEPING PILOTS CURRENT WOULD BE A WHOLE OTHER ISSUE TO DEAL WITH

THE OPTIONS COMPANIES LIKE OURS WOULD HAVE UNDER THIS NEW INTERPRETATION ARE PRETTY SIMPLE:

COMPLY WITH THE NEW INTERPRETATION AND BE FORCED TO TURN DOWN PROBABLY HALF THE TRIPS THAT COME IN, WITHOUT BEING ABLE TO DECREASE OVERHEAD OR PILOT STAFF. THIS WOULD LEAD TO THE EVENTUAL DEMISE OF THE CHARTER DEPARTMENT OR AT LEAST EXTREME DOWNSIZING

2. COMPLY WITH THE NEW INTERPRETATION, DOUBLE THE PILOT STAFF IN ORDER TO HANDLE THE CURRENT BUSINESS AT HAND AND ACCEPT HIGHER PILOT TURNOVER AND "RUSTIER" PILOTS. THIS ALSO WOULD LEAD TO THE EVENTUAL DEMISE OF THE CHARTER DEPARTMENT.

3. CONVERT THE CHARTER DEPARTMENT TO A "FRACTIONAL OWNERSHIP" PROGRAM WITH THE CURRENT BASE CLIENTELE AND OPERATE UNDER FAR PART 91. THE ONLY WAY TO STAY IN BUSINESS WOULD BE TO GET OUT OF

THE BUSINESS. UNFORTUNATELY, THIS OPTION WOULD LEAVE THE PUBLIC, WHO
AT TIMES REALLY NEEDS US, OUT OF LUCK.

PLEASE DON'T LET THE FAA FEED US ANY MORE BANANAS.

THANK-YOU.